

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA
and STATE OF NEW JERSEY,

Plaintiff,

v.

DONALD J. TRUMP, *et al.*

Defendants,

LITTLE SISTERS OF THE POOR SAINTS
PETER AND PAUL HOME,

Defendant-Intervenors.

Civil No. 2:17-CV-04540-WB

DEFENDANT-INTERVENOR'S MOTION FOR SUMMARY JUDGMENT

Defendant-Intervenor Little Sisters of the Poor Saints Peter and Paul Home, by and through undersigned counsel, respectfully moves this Court for summary judgment on all counts pursuant to Federal Rule of Civil Procedure 56. In the alternative, Defendant-Intervenor respectfully requests that, if the Court accepts the States' arguments and invalidates the Final Rules, the Court also invalidate the regulations implementing the Mandate prior to October 13, 2017.

There are no genuine issues of material fact, and Defendants are entitled to judgment as a matter of law for the following reasons, as set forth in the attached Memorandum of Law:

1. The States lack Article III standing.
2. The States cannot prevail on their claims that the Final Rule is substantively invalid.
3. The States cannot prevail on their claims that the Final Rule is procedurally invalid.
4. The underlying contraceptive Mandate is invalid under RFRA and unconstitutional under the First Amendment, the nondelegation doctrine, and as a

violation of the Appointments Clause.

This Motion is supported by the attached Memorandum of Law, Defendant-Intervenor's previously-filed Statement of Undisputed Facts and Response to the Plaintiffs' Statement of Undisputed Facts, the Joint Appendix, and any additional material that may be considered by the Court.

Defendant-Intervenor requests oral argument on this motion.

Dated: October 23, 2020

Respectfully submitted,

/s/ Mark Rienzi

Mark Rienzi, *pro hac vice*

Lori Windham, *pro hac vice*

Eric Rassbach, *pro hac vice*

Diana Verm, *pro hac vice*

The Becket Fund for Religious Liberty

1200 New Hampshire Ave. NW, Suite 700

Washington, DC 20036

Telephone: (202) 955-0095

Facsimile: (202) 955-0090

mrienzi@becketlaw.org

Nicholas M. Centrella

Conrad O'Brien PC

1500 Market Street, Suite 3900

Philadelphia, PA 19102-2100

Telephone: (215) 864-8098

Facsimile: (215) 864-0798

ncentrella@conradobrien.com

Counsel for Intervenor-Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: October 23, 2020

/s/ Mark Rienzi

Mark Rienzi

The Becket Fund for Religious Liberty

1200 New Hampshire Ave. NW, Suite 700

Washington, DC 20036

Telephone: (202) 955-0095